Remarks:

Applicants appreciatively acknowledge the Examiner's confirmation of receipt of Applicants' claim for priority and certified priority document under 35 U.S.C. § 119(a)-(d).

Reconsideration of the application is respectfully requested.

Claims 1 - 11 are presently pending in the application.

In paragraph 1 of the above-identified Office Action, claims 1 - 3, 5, 7, 10 and 11 were rejected as allegedly being anticipated under 35 U.S.C. § 102(e) by U. S. Patent No. 6,119,109 to Muratani et al ("**MURATANI**"). In paragraph 2 of the Office Action, claims 2 - 4 were rejected as allegedly being obvious under 35 U.S.C. § 103(a) over **MURATANI** in view of U. S. Patent No. 6,360,271 to Schuster et al ("**SCHUSTER**"). In paragraph 3 of the Office Action, claims 8 and 9 were rejected as allegedly being obvious under 35 U.S.C. § 103(a) over **MURATANI** in view of U. S. Patent No. 5,913,040 to Rakavy et al ("**RAKAVY**"). .

Applicants respectfully traverse the above rejections.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

The sole independent claim of the present case, claim 1,

recites:

> "A method of capturing utilization charges in a packet
> data transmission network, which comprises:
>
> acquiring data relating to charges for a transmission
> session during the transmission session;
>
> calculating charges that become payable during the
> transmission session; and
>
> **recording the calculated charges <u>when</u> the calculated
> charges exceed a threshold charge-total.**" [emphasis
> added by Applicants]

As can be seen from the claim itself, in the method of

Applicants' claims, the **"calculated charges"** are only **recorded**

<u>when the calculated charges exceed a threshold charge-total</u>.

Thus, all claims of the instant application require the

calculated charges to be recorded **only after a point in time**

when the charge-total threshold is exceeded.

The specification of the instant application, on page 4, lines

6 - 17, describes one advantage of **recording** the **calculated**

charges as claimed, as follows:

> "In other words, any charges that are payable are
> calculated during the course of a transmission session,
> and a record is made of charges that are payable once a
> charge threshold is exceeded.
>
> This means that recordings are not made for
> transmission sessions with low levels of transmission
> activity, which only correspond to a low equivalent
> charge, **i.e. it prevents this type of transmission
> session from loading the transmission network with
> numerous charge records that have to be processed and
> transmitted, if the associated costs are**

disproportionate to the equivalent charge." [emphasis added by Applicants]

None of the references cited in the Office Action, teach or suggest, among other limitations, the feature of recording the calculated charges **when** the calculated charges exceed a threshold charge-total, required by Applicants' claims.

More particularly, the cited **MURATANI** reference relates to an information distribution system and a billing system for the information distribution system. Applicants' claimed **recording** feature is allegedly shown in **MURATANI,** according to the Office Action, in col. 16, lines 6 - 10. Applicants respectfully disagree.

Col. 16, lines 6 - 10 of **MURATANI** reads as follows:

"The billing system is also supplied with information
for controlling reproduction of the information as
control data. **The billing process is ended** in
accordance with control data (for example, end of
provision of the image information) supplied from
outside or **when a detection is performed that the
charge has exceeded a limit during the calculation of
the charge."** [emphasis added by Applicants]

The portion of **MURATANI** cited in the Office Action only specifies **when the billing process is ended.** See the cited portion of **MURATANI. MURATANI** neither teaches, nor suggests, **when recording is to begin,** which moment is specifically recited in Applicants' claims. One reason why **MURATANI** would

want to **end** the billing process **when a limit has been**

exceeded, would be to avoid a shortcoming set forth in

MURATANI's background, col. 3, lines 4 - 10, which states:

> "The reason why the billing process must be performed
> in a real-time manner is that the balance of an account
> of a bank **or the permitted limit** of a credit card has a
> possibility that it is changed because of use in
> response to another requirement. **Therefore, a risk that
> the charge cannot be collected must be avoided and thus
> the real-time billing process must be performed.**"
> [emphasis added by Applicants]

As such, the **limit** referred to in the portion of **MURATANI**

cited in the specification, is **a <u>credit limit</u> available to the**

user. This is supported by **MURATANI**, col. 14, line 61 - col.

15, line 6, which, in connection with the same embodiment as

the cited portion, states :

> "The determination whether or not provision of
> information is approved/disapproved corresponds to
> checking of validity of the billing system or the
> settlement method. **Specifically, inquiry of credit,
> <u>that of allowable limit</u> which are performed when a
> credit card is used and inquiry of a balance in an
> account of a bank, a prepaid card or an electronic
> purse are included.** The determination whether or not
> the provision of information may be performed by the
> settlement processing module 153. **The settlement
> processing module 153 notifies a result of the
> determination to the charging processing module 152 to
> be used in a determination process for controlling the
> information provision <u>so as to be within the limit</u>
> during the calculation of the charge.**" [emphasis added
> by Applicants]

Clearly, the **MURATANI** reference teaches that billing should

end before a **credit limit** is exceeded. See also **MURATANI**,

col. 15, lines 46 - 47. **MURATANI** neither teaches, nor

suggests, **recording the calculated charges <u>when</u> the calculated**

charges exceed a threshold charge-total, as required by all of

Applicants' claims. As such, the **MURATANI** reference fails to

teach or suggest Applicants' claimed invention, and

Applicants' claims are believed to be patentable over the

MURATANI reference.

Additionally, claims 2 - 4 were rejected in the Office Action

under a combination of **MURATANI** and **SCHUSTER**. The **SCHUSTER**

reference relates to a system for dynamic jitter buffer

management based on synchronized clocks. The **SCHUSTER**

reference discloses that packet delay measurements based upon

synchronized clocks may be used to establish or adjust fees to

charge for transmission of real-time media signals over a

packet switched network, based on transmission delay and

packet delay variance or jitter. See **SCHUSTER**, col. 5, lines

22 - 25; lines 56 - 59; col. 11, lines 59 - 64; col. 12, lines

5 - 9; lines 15 - 24; col. 13, lines 42 - 55. However, the

SCHUSTER reference neither teaches, nor suggests, **recording**

the calculated charges when the calculated charges exceed a

threshold charge-total, as required by all of Applicants'

claims. As such, the **SCHUSTER** reference fails to make up for

the failures in the teachings of the **MURATANI** reference.

Further, in the Office Action, claims 8 and 9 of the instant application were rejected over the combination of **MURATANI** and **RAKAVY**. The **RAKAVY** reference relates to a method and apparatus for transmitting and displaying information between a remote network and a local computer. **RAKAVY** discloses that under most current network models, users are typically charged based on the amount of time they are connected to specific resources on the network. **RAKAVY** additionally suggests that in future implementations of these networks, users may be charged based on the amount of information, or number of network "packets" or other units of data, the user has received. See **RAKAVY**, col. 6, lines 31 - 49.

However, the **RAKAVY** reference also fails to teach or suggest **recording the calculated charges when the calculated charges exceed a threshold charge-total**, as required by all of Applicants' claims. As such, the **RAKAVY** reference additionally fails to make up for the failures in the teachings of the **MURATANI** and **SCHUSTER** references.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest the features of Applicants' claim 1. Claim 1 is, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are

ultimately dependent on claim 1. As it is believed that the claims were patentable over the cited art in their original form, the claims have not been amended to overcome the references.

In view of the foregoing, reconsideration and allowance of claims 1 - 11 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,

Kerry P. Sisselman
Reg. No. 37,237

_____
For Applicants

January 18, 2005

Lerner and Greenberg, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101